No. 350.

Motion to advance

Filed Jan. 29, 1900.

Office Supreme Court U. S.
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JAN 29 1900
JAMES H. MCKENNEY,
Clerk.

In the Supreme Court of the United States.

OCTOBER TERM, 1899.

JOHN BAD ELK, PLAINTIFF IN ERROR,
vs.
THE UNITED STATES.
No. 350.

MOTION TO ADVANCE.

In the Supreme Court of the United States.

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JOHN BAD ELK, PLAINTIFF IN ERROR,
v.
THE UNITED STATES.
No. 350.

MOTION TO ADVANCE.

The plaintiff in error was indicted on April 5, 1899, in the district court of the United States for the district of South Dakota and the case remitted to the circuit court of the United States for the same district. The indictment charged the defendant, an Indian of the Sioux tribe, with the murder of one John Kill Backs, on the 13th of March, 1899, at the Pine Ridge Indian Reservation. He was tried, and on April 17, 1899, found guilty as charged in the indictment, the jury not qualifying their verdict, and April 19 was sentenced to be hanged.

Both the defendant and the deceased were Indian policemen.

The deceased and another Indian policeman were ordered to arrest the defendant for some offense alleged

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to have been committed by him. The killing grew out of the attempt to make the arrest. It is claimed that as the order to arrest was not given in writing it had no validity, and that the defendant was justified in resisting its enforcement.

In accordance with section 6 of the act of February 6, 1889 (25 Stats., 656), the Solicitor-General respectfully moves the court to advance the case on the docket and set it down for hearing on such day as may be convenient to the court during the present term.

Notice of this motion has been served on counsel for the plaintiff in error.

JOHN K. RICHARDS,
Solicitor-General.